

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER	<input type="checkbox"/>	DATE	<u>November 19, 2009</u>
MOTOR CARRIER MATTER	<input type="checkbox"/>	DOCKET NO.	<u>2009-342-WS</u>
UTILITIES MATTER	<input checked="" type="checkbox"/>	ORDER NO.	<u></u>

SUBJECT:

DOCKET NO. 2009-342-WS - Review of Avondale Mills, Incorporated's Rates Approved in Order No. 2009-394 - Discuss with the Commission a Letter with Various Requests Filed by Interveners, Michael Hunt and Joe A. Taylor.

COMMISSION ACTION:

A motion relating to Docket No. 2009-342-WS, in which we consider whether to modify the rate increases granted to Avondale Mills, Inc. in Order No. 2009-394:

This docket and the preceding docket in which we approved the rate increases sought by the Company have together presented one of the most challenging and difficult sets of facts ever before us. As everyone now knows, the combination of a long history of artificially low, corporately subsidized rates, coupled with the Graniteville chlorine spill tragedy and resulting mill closure, and the Company's undisputed need thereafter to begin recovering the full ongoing costs of providing water and sewer service to its customers in the wake of the mill closure have amounted to a perfect storm causing hardship to all involved.

Mr. Hunt and Mr. Taylor, the customers who have made appearances as intervenors in this matter, have essentially proposed that the Commission prohibit the Company from collecting the new rates for the month of July, 2009, based upon their assertion that the new rates were imposed without the ratepayers being afforded the benefit of advance notice of the rate increase. Whether or not their assertions about lack of notice are true, the relief they propose is not a workable solution because it would amount to unlawful retroactive ratemaking. Long-established precedent from the South Carolina Supreme Court prohibits us from modifying rates and charges already billed.

The Office of Regulatory Staff has recognized that the rate increases approved in Order No. 2009-394 were properly supported by the evidence in the record and were validly adopted, but has asserted that because of the additional testimony heard in Docket No. 2009-342-WS concerning the dramatic impact of the rate increases on customers, the Commission should, pursuant to its powers granted under Sections 58-5-270 and 58-5-320, change the rates prospectively, reinstating the old rates for the current month and phasing the increases in over the next six months, requiring the Company to continue to make improvements to the system as a condition of receiving the increases. While the ORS's proposal has some appeal, it is flawed in that it requires the Company to make physical improvements to the system, while at the same time depriving the Company of the revenue necessary to fund the improvements.

The Company's need for revenue to fund the continued improvement to the water and sewer systems serving its customers, coupled with the longstanding legal prohibition of retroactive ratemaking, constrains us to give relief to the customers only in the form of additional time to pay any arrearages resulting from the first bills after the rate increases were approved. During the hearing, Mr. Altherr of Avondale Mills testified that the Company would be willing to accept installment payments on the July arrearages. Accordingly, I move that we

order Avondale to allow its customers having arrearages resulting from the July bills to pay their July arrearages in two equal monthly installments, beginning in December 2009. Avondale shall not initiate efforts to discontinue service, charge interest or late fees to affected customers during this time.

I want to emphasize that today's relief is interim in nature, and that we hold the remaining issues in this docket in abeyance until the time of the proposed transfer of the facilities.

PRESIDING: Howard

SESSION: Regular

TIME: 2:00 p.m.

	MOTION	YES	NO	OTHER	
FLEMING	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Absent</u>	Annual Leave
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
MITCHELL	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
WHITFIELD	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
WRIGHT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		

(SEAL)

RECORDED BY: T. DeSanty

